

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

RUTH A. VANVORST,	)	
PERSONAL REPRESENTATIVE	)	
Of the ESTATE of SAMUEL	)	
K. STAMEY,	)	
	)	
Plaintiff,	)	Case No. 3:19-cv-000250-DRL - MGG
vs.	)	
	)	
FOREST RIVER, INC.,	)	
	)	
Defendant.	)	

**PLAINTIFF'S PROPOSED JURY INSTRUCTIONS**

No. 1

Plaintiff claims that Sam Stamey quit his job because Forest River allowed his working conditions to become intolerable on account of age-based harassment by co-workers. This is called a 'constructive discharge'. To succeed on this claim, Plaintiff must prove each of the following by a preponderance of the evidence:

1. Sam Stamey was subjected to harassment;
2. The conduct was unwelcome;
3. The conduct occurred because of Sam Stamey's age;
4. The conduct was sufficiently severe or pervasive that a reasonable person in Sam Stamey's position would find his work environment to be hostile or abusive;
5. At the time the conduct occurred, Sam Stamey believed that the conduct made his work environment hostile or abusive;

6. Defendant knew or should have known about the conduct;
7. Defendant did not take reasonable steps to stop the conduct or prevent it from recurring;
8. Sam Stamey's working condition became so intolerable that a reasonable person in his position would have had to quit.

If you find that Plaintiff has proved by a preponderance of the evidence each of the things required of him, then you must find for Plaintiff. However, if Plaintiff did not prove by a preponderance of the evidence each of the things required of him, then you must find for Defendant.

Authority: Seventh Circuit Pattern Jury Instructions No. 3.01 and 3.04 committee comment "d".

## No. 2

If you find that Plaintiff has proved her claim against Defendant, then you must determine what amount of damages, if any, Plaintiff is entitled to recover. Plaintiff must prove damages by a preponderance of the evidence.

If you find that Plaintiff has failed to prove her claim, then you will not consider the question of damages.

Authority: Seventh Circuit Pattern Jury Instruction No. 3.09.

No. 3

If you find that Plaintiff has proven her claim of age discrimination by a preponderance of the evidence, you may award as damages any lost wages and benefits Sam Stamey would have received from the Defendant if he had not been constructively discharged.

It is Plaintiff's burden to prove that Sam Stamey lost wages and benefits and their amount. If Plaintiff fails to do so for any periods of time for which she seeks damages, then you may not award damages for that time period.

Authority: 29 U.S.C. §626(b); Seventh Circuit Pattern Jury Instruction No. 3.11.

No. 4

In calculating the amount of damages Plaintiff is entitled to receive, you may not reduce the amount of your award by the amount of any Social Security retirement benefits that Sam Stamey received.

Authority: *Dunnagan v. Madison Cnty. Treasurer's Office*, 2016 U.S. Dist. LEXIS 154989 \*3 (S.D. Ill. July 25, 2016).

No. 5  
(Limiting Instruction)

Members of the jury. You are about to receive into evidence a Charge of Discrimination that Mr. Stamey filed against Forest River. You may consider the statements made in the document only as evidence of what the Equal Employment Opportunity Commission reported to Forest River what Mr. Stamey was alleging, and not as proof of the truth of the statements themselves.

Authority: Fed. Evid. Rule 801(c)(2).

Respectfully submitted:

/s/ Patrick F. O'Leary  
Patrick F. O'Leary (#10274-20)  
Windsor Office Park  
3000 Windsor Court, Suite A  
Elkhart, IN 46514  
574-264-6262

Edward Chester (#3749-20)  
Chester Law Office  
230 North Main Street, Suite 2  
Elkhart, IN 46516  
574-296-1515

Attorneys for Plaintiff

**CERTIFICATE OF SERVICE:**

The undersigned counsel does hereby certify that he filed this Plaintiff's Proposed Jury Instructions on March 27, 2023 using the Clerk's ECF system and at the same time a true and complete copy of the document was served electronically upon the following counsel for Defendant:

Patrick O'Rear  
Mark Crimiti  
Jesse Barrett  
SouthBank Legal  
100 E. Wayne Street, Suite 300  
South Bend, Indiana 46601

/s/ Patrick F. O'Leary  
Patrick F. O'Leary (#10274-20)